

31 JAN 2019

Catherine Hutton
Senior Journalist
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Dear Ms Hutton

Official Information Act 1982 request: Further information regarding the Ministry's response to you of 4 July 2018

We refer to your complaint to the Office of the Ombudsman regarding the Ministry of Justice's response dated 4 July 2018 to your request for information made on 22 May 2018 under the Official Information Act (OIA).

In your request, you asked the Ministry to provide:

1. *the figures that were included in Hon Judith Collins' factsheet that were not included in Hon Andrew Little's office's figures; and*
2. *the full costs of running the Family Court every year from 2006/07 to 2016/17.*

As advised in the Ombudsman's email to you of 30 January 2019, the Ministry has revisited its decision on your initial request for information, which we detail below.

Further breakdown of figures provided by Hon Judith Collins

The Ministry initially advised you that a further breakdown of figures on Hon Judith Collins' factsheet could not be provided without substantial collation and research. After further investigation, the Ministry has located the information appended in Appendix A titled 'Costs for major Family Court Components 2004/5 – 2009/10'. This is the most up to date information the Ministry could locate. Note that while the figures in Appendix A have some differences to the figures in Hon Judith Collins' factsheet, the information set out in Appendix A still relates to similar figures from a similar period previously provided. We have assumed that these differences have occurred as part of the updating process. We also note that the figures in Hon Judith Collins' factsheet included the year 2010/11, whilst the figures in Appendix A finish at 2009/10.

As we were unable to locate or recreate a more recent breakdown of the figures you refer to in your request, due to the passage of time that has elapsed, I am now refusing this part of your request under section 18(e) and 18(g)(i) of the OIA. This is because the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found; and the information requested is not held by the department or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is either held by another department or Minister of the Crown or organisation, or by a local authority.

The full costs of running the Family Court every year from 2006/7 to 2016/17

We now consider the proper ground for refusal of this information is that it is not held by the Ministry. It is important to note that the 'full costs' of running a court would include a mixture of expenditure from both departmental and non-departmental appropriations administered by the Ministry. Given this mixture of expenditure, the 'full costs' of running a court is therefore not held by the Ministry regarding 'departmental expenses'. The Ministry's financial system is not an activity-based system and therefore does not distinguish between costs associated with different jurisdictions or divisions, for example, between the Family¹, Youth or Civil and Criminal jurisdictions. The figures released in Hon Judith Collins' factsheet contain estimates of 'departmental expenses' for the Family Court, as these were developed as part of an extensive and substantial in-depth review of such costs that required the use of a series of complex assumptions. To re-do this project would be a time-consuming and expensive exercise. Accordingly, we now refuse this part of your request under s 18(g) of the OIA.

It is important that we inform you that on 4 July 2018 we provided you with a table of the Crown's (non-departmental) expenditure for the Family Court. As a result of reviewing the Ministry's initial response to you, we found an error in the figures provided in Table 1 of our 4 July 2018 response regarding the Crown (non-departmental) expenditure costs of running the Family Court every year from 2006/07 to 2016/17. Several expense codes were not captured which meant that the Ministry did not account for all Crown (non-departmental) expenditure costs relating to the Family Court. Please now refer to Appendix B (appended to this letter) for the correct figures. You will see that Appendix B is broken down further than the information previously provided to you. I apologise for this mistake and any inconvenience it may cause you. Please know that the Ministry has reviewed and updated its quality assurance process for financial information requests to ensure this does not happen again.

If you require any clarification of the information contained in this response please contact Antony Paltridge, Team Leader, Media and External Relations, by calling (04) 918 8980 or 027 689 0667; or emailing media@justice.govt.nz

Yours sincerely



Carl Crafar
Chief Operating Officer

Cc Penelope Eathorne, Office of the Ombudsman

Ref: 72743

Attachments:

- Appendix A: Costs for major Family Court components, by financial year (2004/05 to 2009/10)
- Appendix B: Amended Crown (non-departmental) costs for running the Family Court, broken down by category and financial year (2004/05 to 2017/18)

¹ The Family Court is a division of the District Court.

APPENDIX A

Costs for major Family Court components 2004/05-2009/10 (\$000)

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	% Change 04/05- 09/10
Operational costs	\$20,362	\$22,153	\$22,612	\$26,157	\$25,399	\$26,065	28%
Professional services	\$37,570	\$37,749	\$40,173	\$48,562	\$54,370	\$60,723	62%
Legal aid	\$26,010	\$25,362	\$28,015	\$29,496	\$38,581	\$50,298	93%
Total	\$83,942	\$85,264	\$90,800	\$104,214	\$118,350	\$137,086	63%

NB: Costs do not include direct judicial resourcing or indirect court operating costs.

Operational costs: Sourced from Operations Finance April 2011. Note operational costs differ to previous interpretations in that only direct costs are included (namely: court staff, rent, utilities, travel, IT and consumables). Depreciation, capital charge and share of Ministry overheads are excluded - this means the two cost interpretations differ considerably.

Professional services: Professional services costs used in the final Cabinet paper are slightly lower than previous versions due to the identification and removal costs not arising in the Family Court business. This includes removing of costs from the 2009/10 total for Domestic Violence (\$1.959 million) and Other (\$2.182 million) and for 2004/05, 0.700 million for Other.

Legal aid: Legal aid for CoCA cases was sourced from Access to Justice team in 2010

Appendix B: Amended Crown (non-departmental) costs for running the Family Court, broken down by category and financial year (2006/07 to 2017/18)

Category of Expenditure	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Counselling	\$6,430,835	\$7,207,816	\$10,277,927	\$11,224,354	\$9,718,660	\$8,997,649	\$5,672,413	\$2,634,008	-\$106,962	\$519,453	\$662,441	\$1,166,543
Lawyer for Child	\$15,311,479	\$18,245,380	\$20,602,781	\$23,688,798	\$25,670,768	\$22,208,964	\$21,519,765	\$23,742,016	\$20,986,019	\$22,084,214	\$24,150,622	\$27,463,173
Specialist reports	\$3,845,495	\$4,394,694	\$4,912,670	\$5,369,677	\$5,162,635	\$3,937,827	\$4,261,753	\$4,514,175	\$4,389,838	\$4,451,673	\$4,823,851	\$5,586,697
Other Family	\$2,824,111	\$4,543,561	\$4,598,387	\$5,430,604	\$6,427,389	\$5,454,743	\$5,219,769	\$5,694,750	\$4,875,196	\$5,110,793	\$5,623,997	\$8,284,202
Lawyer for Child CYPF (Children Young Persons and Their Families Act 1989)	\$7,488,441	\$7,925,462	\$7,638,337	\$7,601,572	\$7,294,674	\$7,412,284	\$7,694,283	\$7,964,634	\$7,766,466	\$8,154,953	\$8,684,697	\$10,044,217
Other CYPF	\$933,803	\$1,199,089	\$1,200,698	\$1,148,078	\$1,285,877	\$1,037,245	\$1,066,757	\$1,019,189	\$1,386,751	\$1,316,367	\$1,617,794	\$1,956,277
Domestic Violence	\$4,972,881	\$5,763,504	\$5,192,801	\$6,746,562	\$6,126,068	\$5,426,021	\$5,275,438	\$5,907,077	-\$43,172	-\$1,215,521	\$146,372	\$738,589
Protection of Personal and Property Rights Act 1988	\$1,057,949	\$1,517,922	\$1,830,518	\$1,612,294	\$1,694,300	\$1,819,449	\$2,071,753	\$2,273,752	\$2,296,014	\$2,422,946	\$2,466,077	\$3,201,163
Total	\$42,864,993	\$50,797,427	\$56,254,118	\$62,821,940	\$63,380,371	\$56,294,182	\$52,781,933	\$53,749,601	\$41,550,150	\$42,844,876	\$48,175,852	\$58,440,859

- Other Family includes lawyer to assist, and lawyer for subject person.
- Crown (non-departmental) exclude costs regarding Judges salaries, court staff, ICT support, security, judicial support, court staff and transcription services
- The costings for Counselling (2014/15) and Domestic Violence (2014/15 and 2015/16) are showing as negative due to the overstated expenditure accruals in 2013/14 due to legislative changes brought about by the Family Justice Reforms and the Domestic Violence Amendment Act 2013.
- Costings for Counselling (2014/15) reflect the legislative change as at 31 March 2014.
- Costings for Domestic Violence from 2014 reflect the legislative change as at 1 October 2014. Figures from that date include lawyer to assist costs, specialist reports and DV programme costs for referrals made prior to 1 October 2014 and included in transitional provisions.
- Costings for Domestic Violence programme referrals made under the amended legislation as from 1 October 2014 are not recorded in these figures as amounts may include non-Family Court costs.